

## REMARKS

These remarks are responsive to the office action dated January 17, 2007. Claims 1, 6-15, 18-20, 25-34, 39-47 are pending in the application. Independent claims 1, 15, 20 and 34 are amended.

### **I. Rejection under 35 USC 103(a)**

Claims 1, 6-15, 18-20, 25-34, 39-47 are rejected under 35 U.S.C. 103(a) over U.S. patent No. 6, 012, 04-Lupien et al in view of U.S. patent No. 5, 799, 287 - Dembo. In the Official Action the examiner states:

As per claims 1, 6-14, Lupien discloses a method of directing a securities trade order to a particular market method comprising: receiving trade execution quality preference information supplied by a user (see column 7 lines 15-53)\* receiving an order for at least one securities trade from said user (see column 6 lines 14-22).

Lupien fail comparing explicitly teach statistical measures of said at least a selected two of a plurality of execution quality parameters, receiving assigned relative weight value for at least one of said selected execution quality parameters, statistical measures of said at least two selected execution quality parameters to provide a comparison, said comparison assigning greater significance to respective ones of said selected execution quality parameters having a greater assigned relative weight value than others of said selected execution quality parameters.

However Dembo discloses a representative embodiment of the method and apparatus according to the present invention is a computer-based system that generates a replicating portfolio in four steps: information gathering, preprocessing, optimizing, and pricing. In the information gathering step, a user identifies certain sets of instruments and relevant instrument attributes. For example, the user identifies a target instrument or portfolio of instruments that has an expected payoff at a specified rollover date corresponding to a desired profile, a set of instruments that may be used to create a hedge portfolio, a current portfolio (if one is held), and any new securities to be priced. In addition, the user specifies ranges of values for any uncertain parameters (for example, volatility, yields, beta) to be used in calculating the future value of the instruments specified. These ranges of values define the future states with respect to which the hedge, state price vector and risk/reward profile will be created. Finally, the user assigns a weight to each of the values in the ranges to indicate an estimate of the relative probability of a particular future state actually occurring. (see column 3 lines 63- 67 and column 4 lines 1-6 and column 14-67 and column 5-15 lines 1-67). Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of Lupien ...

Applicant notes at the outset that neither Lupien nor Dembo are directed to methods or systems for routing or directing a securities trade order to a particular financial market. The invention provides a predictive automated routing system for trading securities that allows broker/dealers to route securities orders to a particular market center in a fast and efficient manner. In operation the invention receives trade execution quality preference information from a user. The user-supplied trade execution quality preference information is compared to at least one statistical measure for each of a plurality of market centers. The order is routed to one of the market centers as a function of the comparison.

In contrast Lupien discloses a crossing network that matches buy and sell orders based upon a satisfaction and quantity profile. In general, a crossing network is an electronic financial network for matching orders for execution without first routing the order to an exchange or market center (where the order would be accessible for public viewing). Lupien expressly states:

Crossing networks have a number of advantages, including: (a) traders need not search for a contraparty; and (b) anonymity is preserved. Col 1, lines 65-67.

...

Given the above limitations of conventional crossing networks, a more satisfactory approach to the overall problem of continuously satisfying the buying and selling desires of an arbitrary number of market participants is needed. Furthermore, a crossing network is needed that will guarantee mathematical optimality of the matching process, so that each participant is assured that the overall outcome of the process (in terms of the price and size of all fills) has maximized the joint satisfaction of all participants. Col 2, lines 49-54.

Lupien also specifically, references several examples of existing crossing networks. For example the POSIT system. See e.g., <http://www.itg.com/offerings/posit.php> for a description of the current POSIT system. Attached as Exhibit A are copies of the itg.com website from Apr 05, 2001 as supplied by the <http://web.archive.org> website. For example, the Posit webpage from

Apr 05, 2001 states: "POSIT is the only execution tool of its kind: an electronic equity-matching system, which lets users confidentially find the natural buyer or seller of a trade during the market day." A review these web pages as well as the Lupien specification confirms the definition for the term "crossing network" as set out above. Accordingly, Lupien as a whole teaches away from a system or method for routing a securities trade order to a particular financial market.

Lupien does not disclose "receiving trade execution quality preference information supplied by a user." A review of Lupien, column 7 lines 15-53 in particular, reveals a variety of general parameters such as: Transaction Type e.g., buy, sell, sell short; Ticker Symbol, Quantity, Order Type e.g., limit or market, Time-in-Force e.g., good until canceled" (GTC), "good until end of day" (End of Day) and for a set period of time (e.g., minutes). Column 7, lines 15-28 These are not trade execution quality parameters. Lupien goes on to disclose other parameters geared towards a crossing network: i) Center Price parameter - used to set the price that is displayed in the center of price axis of the satisfaction density profile, ii) Price Range parameter - the range for the price on the price axis; iii) Price Interval parameter - used to set the price interval (i.e., scale) on the price axis of the satisfaction density profile, iv) Price parameter - used to set whether the profile is absolute or relative, v) Min Size parameter - the minimum limit for the quantity axis of the satisfaction density profile, vi) Max Size parameter - the maximum limits for the quantity axis of the satisfaction density profile. Column 7, lines 29-50. These parameters are not trade execution quality parameters.

Dembo adds nothing to the mix. Dembo discloses a method and apparatus for optimal portfolio replication. Dembo states:

In pragmatic terms, a portfolio manager controlling a given portfolio (i.e., a target portfolio) has the objective of constructing a replicating portfolio that behaves identically to the target portfolio under all possible future states of the world. Such a replicating portfolio is called a perfect replication. A perfect replication will produce a perfect hedge for the target portfolio; that is, a short position in the replicating portfolio coupled with a long position in the target portfolio will result in no net exposure. Col. 2, line 44-52.

Applicant notes that there is nothing in Lupien or Dembo concerning the use of trade execution quality preference information to route securities orders to a particular market center, as particularly and distinctly defined in the claims. In consequence, applicant respectfully requests withdrawal of the stated rejection. The rejection lacks adequate support for several reasons. It is improper to combine Lupien with Dembo because there is no reason a person of ordinary skill in the art would have combined any of the various disclosed elements in the manner claimed. Additionally, even assuming, *arguendo*, that some teaching in one of the references can be argued to support a combination (which applicant respectfully asserts is not the case), Lupien if combined routinely with Dembo fails to disclose or suggest the invention defined in claims 1, 15, 20 and 34 as a whole.

Independent claims 1, 15, 20 and 34 as amended recite specific instances of execution quality parameters (e.g., Execution At/Within Best Bid and Offer (BBO) or National Best Bid and Offer (NBBO), Price Improvement, Speed of Execution, Liquidity Enhancement, Size Improvement, Performance Above the National Average Price). The claims as amended are fully support by the specification as filed. For example, paragraph 0020 of the published application recites:

The Best Execution Profile form 102 typically requests that the User 100 select one or more execution quality parameters for a particular trade, particular class of trades or for all trades. Included are Execution At/Within Best Bid and Offer (BBO) or National Best Bid and Offer (NBBO), Price Improvement, Speed of Execution, Liquidity Enhancement, Size Improvement, Performance Above the National Average Price, Custom Measures, and other execution quality parameters.

The invention uses these execution quality parameters to provide predictive automated routing of user trades to the market center that is most likely to execute the trade consistent with the user's trade execution quality preferences. The prior art as a whole would not lead a person of ordinary skill in the art to combined these elements as particularly and distinctly defined in the claims. The remaining dependent claims recite further aspects of the invention, and considering each of the claims as a whole, are patentable in their own right. Allowance of the claims is therefore appropriate and is hereby requested.

## **II Conclusion**

It is believed that all of the rejections set forth in the Official Action have been overcome by the amendments and remarks herein, favorable reconsideration and allowance are earnestly solicited.

If, however, for any reason the Examiner does not believe that such can be taken at this time, it is respectfully requested that he/she telephone applicant's attorney at (215) 446-6257 in order to overcome any additional objections which he might have.

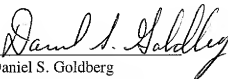
Correspondence and Fees

Please charge the fee for a One Month Extension of Time of Sixty Dollars (\$60.00) to Deposit Account Number 03-3839. No additional fees are believed to be necessitated by the instant response. However, should this be in error, authorization is hereby given to charge Deposit Account no. 03-3839 for any underpayment, or to credit any overpayments.

Please address all correspondence to the correspondent address for **Customer No. 26345 of Intellectual Docket Administrator, Gibbons P.C.**, One Gateway Center, Newark, NJ 07102. Should there be any questions or other matters that may be resolved by a telephone call, the examiner is invited to contact the applicants' undersigned attorney at the number below. Any communications should be sent directly to him at the number below.

Respectfully submitted,

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